

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2014-011366

05/06/2015

HONORABLE J. RICHARD GAMA

CLERK OF THE COURT  
B. Roberts  
Deputy

VAN E FLURY

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P O BOX 875  
LAVEEN AZ 85339

v.

GATEWAY CHEVROLET INC

WILLIAM JAMES FISHER

**MINUTE ENTRY**

The Court received and considered the parties' briefing on Defendant's Motion For Sanctions Against Plaintiff Pursuant to Ariz. R. Civ. P. rules 11, 30[g], 37[f] and A.R.S. §12-349. The Court ruling follows.

Defendants seek sanctions, including an order for attorney fees, against Defendant for maintaining an unfounded and frivolous lawsuit and for engage in abuses of discovery. The abuses of discovery consist of Plaintiff's failure to appear at several depositions properly noticed by the parties. Specifically, Plaintiff is alleged to have failed to appear at a deposition he scheduled for non-party Kevin Franzen on October 31, 2014 and also failed to appear at two depositions scheduled to take his own testimony. One of the depositions was scheduled on December 12, 2014 and the other was scheduled on January 2, 2015. On each occasion, Plaintiff was a no-show and offered no explanation for his non-appearance, nor a good cause reason for his absence.

The issue of sanctions is one committed to the trial court's discretion. In the exercise of that discretion and pursuant to Rules 30[g] and 37[f] the Court grants Defendants request for

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attorney fees and costs associated with the depositions that did not proceed because of Plaintiff's non-appearance. The Court finds that this sanction is appropriate and bears a direct relationship to the nature of the discovery violation and the resultant harm caused by this delay to the litigation process.

The Court in its discretion denies Defendant's request for attorney fees related to the filing of this action pursuant to A.R.S. §12-349.

**IT IS ORDERED** granting Defendant's Motion For Sanctions pursuant to Ariz. R. Civ. P. rules 30[g] & 37[f]. Defendant is awarded attorney fees and costs associated with the three depositions scheduled on October 31, 2014, December 12, 2014 and January 2, 2015.